REMARKS

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

Claims 1-39 are currently pending, of which claims 1, 9, 15, 22, 27, and 34 are independent claims. Applicants have amended independent claims 1, 9, 15, 22, 27, and 34. Support for these amendments can be found at, for example, page 18, lines 7-10, and page 27, lines 4-6.

In the Office Action, the drawings are objected to because some figure numbers are obscure and the title was objected to because it is not descriptive. Claims 1-6, and 9-39 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,628,629 to Jorgensen et al. ("Jorgensen"). Claims 7-8 were rejected as being unpatentable over Jorgensen in view of U. S. Publication No. US 2003 0,187,966A1 to Sinha et al. ("Sinha"). For the reasons stated below, Applicants have amended claims 1, 9, 15, 22, 27, and 34 to overcome the rejection.

Applicants have amended the drawings to type the reference numbers of Figs. 5 and 5A to replace the handwritten numbers. Applicants also have amended the title of the present application to "System and Method for Managing Compliance with Service Level Agreements". After these amendments, Applicants respectfully submit that the objections to the drawings and the title should be overcome.

Jorgensen describes a wireless telecommunications network for providing superior quality of service. To do so, Jorgensen reserves first and second slots for first and second data

packets of an internet protocol flow in a future transmission frame based on an algorithm, in which there may be a periodic variation or no periodic variation between the placements of slots.

Amended claim 1 recites a system for managing compliance with service level agreements, including a queue manager to create a prioritized list of the one or more delivery jobs to be delivered in accordance with the priority determined for the one ore more delivery job, wherein each priority is determined in accordance with a penalty for not meeting one or more requirements in a corresponding service level agreement, and wherein the penalty is variable while the priority list is updated. Similar features have been also added into amended claims 9, 15, 22, 27 and 34. Applicants respectfully submit that Jorgensen fails to teach or suggest the "varilabe penalty" feature as recited in the amended claims. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejections of claims 1, 9, 15, 22, 27, 34, and their respective dependent claims.

Moreover, Jorgensen fails to teach or suggest that each priority is determined in accordance with a penalty for not meeting one or more requirements in a corresponding service level agreement. As stated at col. 17, lines 45-48, in Jorgensen, the "[o]priority queuing simply reorders data packets in the queue based on their relative priorities and types, so that data is from more latency- and jitter-sensitive traffic can be moved to the front of the queue." There is no mention anywhere in Jorgensen, that the priority is determined in accordance with a penalty for not meeting one or more requirements in a corresponding service level agreement, as recited in amended claims 1, 9, 15, 22, 27, and 34.

Accordingly, it is respectfully submitted that independent claims 1, 9, 15, 22, 27, and 34 are patenable over Jorgensen and the rejection of claims 1-6 and 9-39 as being anticipated by Jorgensen under 35 U.S.C. 102(e) should be withdrawn. Furthermore, it is respectfully submitted that dependent claims 2-5, 9-14, 16-21, 23-26, and 28-34 are also patentable at least due to their dependencies from patentable independent claims.

Sinha describes a method and apparatus for service level agreement formation and management. As part of this management, admission controller 113 can decide resource allocation in accordance with SLAs between clients and service providers based on "such factors as impart on SLA with other clients, potential benefits of servicing a request and potential penalty in rejecting a request. However, Applicants respectfully assert that Sinha fails to teach or suggest that the penalty is variable while the priority list is updated. As neither Jorgensen nor Sinha, whether taken alone or in combination, describes the features of the penalty, Applicants respectfully submit that it would not have been obvious for one skilled in the art to modify the teaching of Jorgensen with the teachings of Sinha to achieve the methods and systems of Applicants' independent claims. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 7-8 as obvious over the combination of Jorgensen and Shin under 35 U.S.C. 103(a).

In view of the foregoing all of the claims in this case are believed to be in condition for

allowance. Should the Examiner have any questions or determine that any further action is

desirable to place this application in even better condition for issue, the Examiner is encouraged

to telephone Applicants' undersigned representative at the number listed below.

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Date: April 13, 2004   By: _____
                                       Wan-Ching Yen Montfort
                                       Patent Agent

Attachments:

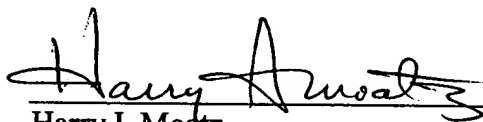CYM/dkp

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Expires: December 31, 2004

Harry I. Moatz
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